

ISAAC AND T. S. WINSLOW.

[To accompany bill H. R. No. 522.]

JULY 5, 1842.

Mr. KENNEDY, of Maryland, from the Committee on Commerce, submitted the following

REPORT:

*The Committee on Commerce to whom was referred the memorial of Isaac and T. S. Winslow, of the city of New York, merchants, report :*

That they find, upon examination, that the claim of Isaac and Thomas S. Winslow for relief was referred to the Committee on Commerce of the 1st session of the 26th Congress, and that Mr. Curtis, from the committee last mentioned, submitted a report, of which the following is a copy :

“ APRIL 4, 1840.

“ Mr. CURTIS, from the Committee on Commerce, submitted the following report :

“ The Committee on Commerce, to whom was referred the memorial of Isaac and T. S. Winslow, of the city of New York, merchants, find the following facts to be well substantiated by competent evidence :

“ That on the 18th of May, 1837, the petitioners imported at the port of New York twenty-five pipes of Holland gin, in the brig Amphitrite, from Rotterdam ; and, as they had a right to do by law, they elected not to enter said gin at that time, and to have it sent to the public store, to await a more favorable period for a sale. That the petitioners, by their agent, daily attending alongside of the said vessel while her cargo was coming out, for the purpose of ascertaining when their gin would be taken out of the vessel ; their object being to have it placed in one of the public stores, upon which they had a policy of insurance against fire. It appears that on Saturday, the 1st day of June, 1837, the petitioners' agent, at three o'clock in the afternoon, applied to the gauger on board the vessel, one of the revenue officers of the United States, to know if the gin would be taken out of the vessel on that day, and was informed by that officer that none of it would be unladen on that day. It also appears that it is not customary to unlade spirits after three o'clock in the afternoon, the residue of the day being required to gauge, mark, and transport that which has been landed during the former part of the day.

“ That on said Saturday, the 1st of June, and after the petitioners had been informed by the custom-house officer on board of said vessel to the contrary, the said twenty-five pipes of gin were landed by the revenue officers just at nightfall without any notice to the petitioners ; and ten pipes thereof, without their knowledge, were sent to public store No. 109 Washington street, which store (with all its contents) was, a few hours thereafter,

and on that night, wholly destroyed by fire. That on this store the petitioners had no insurance; but, designing to place all the gin in public store No. 67 Washington street, they had effected a policy of insurance upon that store, to which the residue of the gin (fifteen pipes) was sent by the custom-house officers; and that all the gin would have been placed in store No. 67, and consequently covered by their policy of insurance, had the petitioners not been improperly misled by the custom-house officer, and the gin landed without their knowledge.

"It appears that the collector required the petitioners to pay the duty upon the ten pipes of gin thus destroyed by fire, as well as upon the fifteen other pipes. It is perfectly manifest that the petitioners took all the necessary steps that prudence required to exempt their property from the risk of fire; that it was their invariable custom to cover by insurance all property of theirs in public store; and that, in this case, they had effected insurance to cover the property, and had not the agent of the Government by his conduct prevented it, by giving notice to them that he would not land their gin on that day, and then landing it contrary to that notice, and contrary to the usage not to land spirits in the latter part of the day, the petitioners would not have been subjected to any loss.

"The case, then, stands thus: These ten pipes of gin were destroyed, and the loss cast upon the petitioners, through the misconduct of the agents of the Government, and without any fault or omission of duty on the part of the petitioners. They insist that the Government ought to indemnify them for the whole value of the property destroyed, alleging that no relief can be obtained by prosecution of irresponsible and insolvent subordinate officers of the Government.

"The committee, upon the whole, are not inclined to admit the liability of the Government to make good to citizens all the injuries they may receive from the negligence and wrong doing of their subordinate agents in the revenue service; and in this, they think, they are justified by every principle of sound policy. They are reluctant to open a door for a new class of claims. The committee, however, are unanimously of opinion that, under the circumstances of this case, the duties paid by the petitioners upon the lost property ought to be refunded. This opinion does not rest solely upon the ground that the goods were destroyed in a few hours after they were landed, and while they were yet in the custody and charge of the Government officers, deposited in a public store, and not yet entered at the custom-house; but because all the efforts and precaution of the petitioners to protect their property were rendered unavailing by the acts of the agents of the Government, who are irresponsible, and against whom there is no redress. With these views, the committee report a bill to indemnify the petitioners for the amount of duties paid by them on the destroyed property; and they reject the claim to be indemnified for the value of the property."

Your committee further report that, having examined the testimony and documents submitted to them, they find that the claim of the said Isaac and Thomas S. Winslow is correctly set forth in the said report; and do therefore report a bill for the relief of the said Isaac and Thomas S. Winslow, by indemnifying them for the duties exacted from and paid by them on the said ten pipes of gin destroyed by fire, under the circumstances above mentioned.